

Written Representation by Network Rail Infrastructure Limited in relation to Ecotricity (Heck Fen Solar) Limited for the Heckington Fen Solar Park Order Development Consent Order 202[]

Planning Inspectorate Reference Number: EN010123

Unique Identification Number: 20038176

Further to Network Rail Infrastructure Limited's (**Network Rail/NR**) relevant representation submitted on 02 June 2023, NR wishes to make this written representation in relation to Ecotricity (Heck Fen Solar) Limited (the **Promoter**) application (**Application**) for the above development consent order (**DCO**).

The Application includes provisions which would, if granted, authorise the Promoter to carry out works on and in close proximity to operational railway land in the control of Network Rail, to use such land temporarily and to acquire permanent interests in such land.

As set out in Network Rail's earlier relevant representation, the Book of Reference (document reference number 4.3) identifies the following plot of land over which Network Rail have rights or own or occupy. The plot is as follows:

- Plot 190 (2274.5 square metres, or thereabouts, of land consisting of a railway directly to the north of the South Forty Foot Drain)

(the **Plot**).

The Promoter has identified that the rights sought to be compulsorily acquired from NR fall within Classes 1 (Permanent easement and access), 3 (temporary use) and 4 (override private rights or extinguish other rights) (the **Class Rights**) and these Class Rights are as described in the Book of Reference at paragraph 2.3.

The Promoter is seeking, through compulsory purchase (**Compulsory Powers**), the permanent acquisition of rights over the Plot (including rights of access to land adjoining the Railway and rights to install a cable under the railway) in accordance with the Class Rights above. The Promoter has provided Network Rail with the Table of Interests in the Book of Reference (Part 1 – Categories 1 and 2) which detail the proposed works and the nature of the powers sought over the Plot.

NR objects to the use of Compulsory Powers and the exercise of the Class Rights over the Plot to deliver the development to be authorised by the DCO on the ground that the proposed works will interfere with the safe and efficient operation of the railway and give rise to impacts on NR's railway and associated infrastructure. The exercise of Class Right 1 is a particular cause for concern for NR due to the structural

impacts that the Class Right contains, and the exercise of these on NR property without the necessary provisions in place would be at the detriment of public safety.

Network Rail continues to investigate the extent of the risk to its assets and is liaising with the Promoter in relation to any mitigation required and it is anticipated that this will continue during the examination process. In particular:

- Network Rail requires protective provisions to be included within the DCO to ensure that its interests are adequately protected and to ensure compliance with the relevant safety standards.
- Network Rail and the requires a private agreement to regulate the manner in which rights over railway property are to be granted and in which works are to be carried out in order to safeguard Network Rail's statutory undertaking. Engineers for Network Rail are continuing to review the extent of impacts on operational railway and Network Rail property and any mitigation required (including NR's review and prior approval of the design proposals for the parts of the DCO scheme which interface with the railway at detailed design and construction stages) will be considered in this agreement.
- The completion of the necessary deeds of easement and asset protection agreement to govern the construction, maintenance and, where appropriate, removal of the parts of the development proposed by the DCO which are located on or adjacent to operational railway land.
- Network Rail and the Promoter are in discussions about the effects of the DCO in general and will continue to liaise to address all outstanding matters.

Until satisfactory agreement has been reached with the Promoter on all matters to its satisfaction, Network Rail will not be in a position to withdraw its objection to the making of the DCO. Network Rail reserves the right to be heard at an appropriate hearing to explain in detail the impacts of the scheme on its operations.

Network Rail notes the Examining Authority's written questions and requests for information (ExQ1) issued on 17 October 2023 and will respond separately.